

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JUAN CORREA-GUTIERREZ,

Defendant.

8:08CR267

ORDER

This matter is before the Court on the Defendant's "Motion for Leave to Proceed In Forma Pauperis," ECF No. 164, on appeal of this Court's Memorandum and Order, ECF No. 157, denying his "Motion to Correct Miscarriage of Justice under Extraordinary Writ of Audita Querela, or in the Alternative, Plain Error," ECF No. 155.

Pursuant to Federal Rule of Appellate Procedure 24, this Court denies the Motion for Leave to Proceed In Forma Pauperis, because:

1. The Defendant has not submitted an affidavit in the detail prescribed by Form 4 of the Appendix of Forms demonstrating his inability to pay or to give security for fees and costs. The Defendant's Affidavit and attachments simply show that he has an available balance in his inmate account of \$1,236.48 as of August 29, 2019, and that he had a deposit to his account of \$75.75 on August 8, 2019, and withdrawals of \$47.60 on August 8, 2019, and \$48.00 on August 1, 2019. See ECF No. 165. He acknowledges income from "other sources" over the last twelve months, but does not describe the source, amount, or expected continuance of such income. See ECF No. 164.

2. The Defendant has not stated his claim to an entitlement to redress, nor has he stated the issues that he intends to present on appeal.

3. This Court certifies that the appeal is frivolous and is not taken in good faith.

Accordingly,

IT IS ORDERED:

1. The Defendant's Motion for Leave to Proceed In Forma Pauperis, ECF No. 164, is denied; and
2. The Clerk will mail a copy of this Memorandum and Order to the Defendant at his last known address, and will notify the U.S. Court of Appeals for the Eighth Circuit.

Dated this 11th day of September 2019.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge